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INFLATION REDUCTION ACT (IRA) AND ENERGY EFFICIENCY INCENTIVE GUIDE

Highlights Of Inflation Reduction Act Incentives in Connection To The Ivestment Tax Credit (ITC) of 2022

This guide highlights possible available primary credits and deductions for real estate and construction sectors as well as architects and engineering firms engaging in energy and efficiency improvements.

The Inflation Reduction Act (IRA) has generated transformative possibilities offering energy incentives and tax credits that can revolutionize these industries. Four main provisions in the IRA impact construction the most, including IRC §179D, IRC §48, IRC §30C, and IRC §45L.

**The following should not be construed as tax advice; recipients should consult a tax advisor to determine if they qualify for tax credits or incentives.*

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INFLATION REDUCTION ACT AND ENERGY EFFICIENCY INCENTIVES

The U.S. Government recently instituted the Inflation Reduction Act (IRA) to incentivize the building trade to use environmentally friendly, clean energy wherever possible. The ACT calls for a 30% credit on most buildings and could reach 50% or even higher with State or City incentives. In order to assist our clients on being fully informed, and to have a better understanding of the IRA, Saxon Capital Group, (EnergyGlassSolar™) engaged the prominent Accounting and Advisory Services firm of Marcum LLP to consolidate the Inflation Reduction Act from over 700 pages down to 8 pages.

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The Inflation Reduction Act ("IRA") was passed on August 16, 2022 and signed into law by President Biden. This historic piece of legislation is aimed at fighting the Climate Crisis by making significant investments in clean energy never seen before. The passing of the IRA included the expansion or creation of 22 tax credits for green energy production, zero-carbon energy production, electric vehicles and charging stations, residential clean energy, advanced manufacturing, and alternative fuels.

These tax credits aim to achieve two goals: increase the development of low or zero- emission technologies and create clean energy jobs, both in manufacturing and long-term construction.

Included in the IRA was also the option to transfer credits or receive direct pay. The primary credits and deductions are further explained in detail on the following pages.

IRC Section 48 - Investment Tax Credit (ITC):

The IRC Section 48 Investment Tax Credit (ITC) has been applicable to solar generation projects for over 15 years. However, the Inflation Reduction Act (IRA) has now made solar eligible for the Section 45 Production Tax Credit (PTC) for the first time. Instead of a one- time 30% ITC provided in the year a solar project is put into operation, the solar PTC can be claimed annually over a 10-year credit period at the current rate of 2.6¢/kWh generated (rates may vary in the future). The qualifications for solar generation facilities remain the same under both credits, however, the PTC can create more value than the ITC for large- scale solar projects over time.

Section 48C ITC was enacted in 2009 and has been modified and extended under the IRA, providing $10 billion of allocations, and expanding eligibility to new types of projects. Section 48C offers a tax credit for investment in qualifying advanced energy projects to produce energy from alternative sources or capture carbon emissions. A precondition for the classification of energy credit is that the taxpayer uses one or more energy properties to make energy projects. According to the IRC, energy properties mean any of the following:

- Equipment that uses solar energy to generate electricity, to heat or cool a structure, or to provide solar process heat,
- Equipment that uses solar energy to illuminate the inside of a structure using fiber-optic distributed sunlight, or electrochromic glass which uses electricity to change its light transmittance properties to heat or cool a structure, but only for property construction that begins before January 1, 2025,
- Equipment used to produce, distribute, or use energy derived from a geothermal deposit,
- Qualified fuel cell property or eligible microturbine property,
- Combined heat and power system property,
- Qualified small wind energy property,
- Equipment that uses the ground or groundwater as a thermal energy source to heat a structure or as a thermal energy sink to cool a structure,
- Waste energy recovery property,
- Energy storage technology,
- Qualified biogas property or
- Microgrid controllers

This upfront credit is based on capital investment of the project. The ITC and bonus deprecation (currently 80% for 2023) are claimed by the taxpayer placing the system into service. The depreciable basis of the project must first be reduced by ½ of the ITC. The base credit will be 6% of the qualifying investment but can increase to 30% if the taxpayer also meets the prevailing wage and registered apprentice requirement issued by the Treasury Department. Systems under 1 MWh of annual production are exempt to the prevailing wage and registered apprentice requitements and are grandfathered in at 30% ITC.

The IRA's new tax credits have also created complexities with the incentives, including the "bonus" tax credits under IRC Section 48(e), which can increase the overall Investment Tax Credit if a project checks all the boxes. A 10% "bonus" credit is available if a clean energy project 1) meets domestic production content, 2) is located in a former energy community (former coal or oil site), EPA brownfield, or low-income area, or located on tribal lands. Certain solar facilities that meet the criteria of having a maximum output of less than 5 MW may qualify for an extra Investment Tax Credit (ITC). If a project is allocated a 1.8 GW environmental justice capacity limitation, it may receive an additional 10% credit if it is situated in a low-income community or on tribal land. Alternatively, if the project is part of a qualified low-income residential building project or qualified low-income economic benefit project, it may receive an additional 20% credit. Please note that some of these "bonus credits" must be applied for through the Department of Energy and approved by the Internal Revenue Service. There is an annual cap on these additional bonus incentives for each tax year.

The most popular "bonus credit" that we are seeing in the marketplace is the domestic production content "bonus credit". Projects that begin construction before 2025 must use at least 40% of domestically manufactured products. This percentage will increase by 5% per year for tax years 2026, 2027 and 2028 capping out at 55%. Furthermore, 100% of all structural iron and steel must come from US sources.

Carryback And Carryforward Rules: Unused tax credits associated with the project can be carried back for three years and forward for 22 years for projects placed in service in 2023 or later. For projects placed in service before 2023, the tax credits can be carried back for one year and forward for 20 years. After 20 or 22 years, half of any unused credit can be deducted, while the remaining amount will expire. It's important to note that tax credits carried backward or forward are not eligible for transferability, meaning they cannot be sold.

IRC Section 6418 - Transferability Energy Credits:

The IRA includes a "Transferability" provision in which Investment Tax Credits can be transferred to another taxpayer. Typically, a developer does not have the tax capacity to claim its own Investment Tax Credits. Before the IRA, developers would sell projects to another taxpayer or enter a tax equity transaction with a large commercial bank or insurance company.

Now, with the IRA, the developer can technically "transfer" the ITC to another taxpayer (Typically a large C Corporation) and retain ownership of the clean energy project for themselves. This provision is affected by an election under the new Internal Revenue Code Section 6418 and is only available for taxable years beginning after December 31, 2022. Payments for the credit must be made in cash, are not considered a taxable event to the transferor, and are nondeductible to the transferee. The proposed regulations have provided a definition for "paid in cash" that restricts the payment to US dollars. This payment can be made in various forms, including cash, check, cashier's check, money order, wire transfer, ACH transfer, or any other bank transfer that involves immediately available funds. Taxpayers also have the option to make multiple elections to split up the credit and transfer it to various transferees. However, any transferred credit must reflect a proportionate share of an eligible credit being transferred, meaning you cannot only choose to transfer the bonus credit, but a portion of the base credit will also need to be transferred.

The proposed regulations from the IRS and Treasury include anti-abuse rules that apply to multipurpose transactions. These rules are designed to address concerns regarding Transfer Eligible Taxpayers using tax credit transfers to avoid recognizing income from other aspects of a transaction. To prevent this, the IRS can disallow or recharacterize a transaction. The main point is that the IRS will closely examine transactions to ensure that the fair value of each item exchanged is accurately represented in the transaction.
The proposed regulations clarify the ability of a Transfer Eligible Taxpayer to make multiple elections to transfer portions of a credit to multiple transferees. It is important to note that Section 6418 does not impose any limitations on the number of transfer elections or the number of transferee taxpayers. Therefore, the proposed regulations do not impose such constraints either. However, it is crucial to distinguish this from the transfer of a single credit (or portion of a credit) multiple times, which is explicitly prohibited by the statute and these proposed regulations under the "no second transfer" rule. Additionally, the proposed regulations specifically state that allocations of purchased credits by a passthrough transferee, such as a partnership or S corporation, to its direct or indirect owners do not violate the "no second transfer" rule.

IRC Section 6417 – Direct Pay of Energy Credit:

Another key provision of the IRA was creating a "Direct Pay" option for certain taxpayers (mainly non-profits and other tax-exempt entities such as state and local governments) that can claim the Investment Tax Credit, which becomes refundable at the entity level. These provisions will allow certain taxpayers who previously could not claim the government incentives to now claim them through a "refundable" tax credit on the non- profit tax return once filed.

- **Credits That Can Be Transferred:** Taxpayers who are not considered applicable entities have the option to transfer or sell all or a portion of the following "eligible credits":

  1. Energy Investment Tax Credit (Section 48)
  2. Clean Electricity Investment Credit (Section 48E)
  3. Renewable Electricity Production Credit (Section 45)
  4. Clean Electricity Production Credit (Section 45Y)
  5. Zero-emission Nuclear Power Production Credit (Section 45U)
  6. Advanced Manufacturing Production Credit (Section 45X)
  7. Clean Hydrogen Production Credit (Section 45V)
  8. Clean Fuel Production Credit (Section 45Z)
  9. Carbon Oxide Sequestration Credit (Section 45Q)
  10. Credit for Alternative Fuel Vehicle Refueling/Recharging Property (Section 30C)
  11. Qualified Advanced Energy Project Credit (Section 48C)

IRC Section 30C IRC Section 45W - IRA Related to Construction:

IRA has generated transformative possibilities for the real estate and construction sectors by offering energy incentives and tax credits that can revolutionize the industries. Four main provisions in the IRA impact construction the most, including IRC §179D, IRC §48, IRC §30C, and IRC §45L.

- **Alternative Fuel Refueling Property Tax Credit – EV Charging Stations (IRC 30C):** Businesses that choose to install electric vehicle (EV) chargers and equipment on their premises may be eligible for a base tax credit equal to 6% of the total cost. The credit can increase to 30% if the cost and installation meet prevailing wage and registered apprenticeship requirements. The credit is available starting January 1, 2023, to December 21, 2032.
- **Commercial Clean Vehicle Credit (IRC 45W):** Businesses and Tax-Exempt Organizations that purchase a qualified commercial clean vehicle may qualify for a commercial clean vehicle credit of up to $40,000. The credit is the lessor of 15% of the cost of the vehicle (30% if the vehicle is not powered by gas or diesel). The maximum credit is $7,500 for vehicles under 14,000 lbs. of gross vehicle weighting ratings (GVWR) or $40,000 for vehicles over 14,000 lbs. of GVWR.

IRC Section 168 - Cost Segregation / New Development:

A cost segregation study enables property owners to optimize the depreciation of their real estate assets by accelerating depreciation in the form of Bonus Depreciation deduction.

- **Tax Benefits:** Most taxpayers can benefit from categorizing components of a property into shorter-life assets and take advantage of bonus depreciation in the current year. Bonus depreciation in 2023 is 80% and will phase out by 20% each year, resulting in 0% in 2027.

  - The specific benefits obtained will vary based on factors such as the property type, the presence of short-life assets, and the depreciable basis of any improvements made by the taxpayer. For example, due to the many components and assets within multifamily properties and office buildings, these usually have a higher proportion of short-life assets compared to industrial buildings.

  - In addition to these benefits, a cost segregation study can uncover other potential cost savings opportunities. One common option involves energy efficiency. If a taxpayer has constructed or made sustainable design improvements to a property, conducting a Section 179D Energy Efficiency Commercial Building Deduction study with a cost segregation analysis can lead to further tax savings.

- **Time to Conduct:** Taxpayers have the option to order a cost segregation study at any time after purchasing, constructing, or renovating a property.

  - The optimal time to conduct the study is during the same year people acquire, build, or remodel their investment real estate. This timing allows for maximum tax savings, as people potentially spend the most on their real estate during this period.

  - Look-Back Study: In cases where property owners did not initially perform a cost segregation study when they first purchased, built, or remodeled the property, the owners can still take advantage of this tax strategy by requesting a look-back study. This type of cost segregation study enables taxpayers to claim a catch-up tax deduction. Once the study is complete, taxpayers can claim this catch-up deduction in a single year. According to IRS rules, taxpayers are permitted to conduct a look-back study on properties they bought, built, or remodeled as far back as January 1, 1987.

IRC Section 45L - New Energy Efficient Home Credit:

The Inflation Reduction Act, signed on August 16, 2022, retroactively extends the former IRC Section 45L to December 31, 2022, and increases the credit beginning January 1, 2023, through December 31, 2032. The IRC Section 45L provides tax credits to eligible contractors who build or substantially renovate a qualified new energy-efficient home in the United States. This is essentially an incentive for contractors to construct more energy-efficient homes. An eligible contractor can be an individual, trust, estate, partnership, LLC, or corporation that must own and have basis in the home during construction.

The amount of credit is based on various eligibility criteria, such as:

1. Type of home, Single-family or Multifamily
2. If requirements are met under the Energy Star program,
3. If requirements are met under the Zero Energy Ready Home program
4. Sale or lease date of the home.

The credit amount ranges from $500 to $5,000, depending on the standards that are met above.

IRC Section 179D - Energy Efficient Commercial Building Deduction:

The IRC Section 179D provides a tax deduction for energy efficiency improvements to commercial buildings, such as improvements to interior lighting, heating, cooling, ventilation, hot water, and building envelope. IRC Section 179D was put in place to encourage the construction of energy-efficient commercial and multifamily buildings for properties in service after December 31, 2022.

The below are entitled to the deduction which could be the building owners, architects, engineering firms in the case of a tax-exempt client:

1. Taxpayers who own or are long-term lessees of commercial buildings are entitled to the deduction.

2. Designers of energy-efficient building properties, such as architects and engineers.

3. Designers of energy-efficient commercial building properties (EECBP) or retrofit energy-efficient commercial building properties (EEBRP) that are installed in buildings owned by specific tax-exempt entities, such as certain government entities, tribal governments,

Alaska Native Corporations, and other tax-exempt organizations.

4. REITs, which are companies that own, operate, or finance income-producing real estate across various property sectors.

The amount of Section 179D deduction is based on the annual energy savings achieved and whether prevailing wage and apprenticeship standards have been met. Taxpayers can claim a tax deduction of up to $5.00 per square foot and should have a 179(D) study completed by a certified engineering firm.

In preparing this memorandum, we have considered the applicable provisions of the Internal Revenue Code and regulations thereunder. These authorities are subject to change or modification retroactively and/or prospectively, and any such changes could affect the validity or correctness of our opinion. We will not update our advice for subsequent changes or modifications to the law and regulations or the judicial and administrative interpretations thereof unless you separately engage us to do so in writing after such subsequent change or modification. Our conclusions are not binding on the Internal Revenue Service, any other tax authority, or any court, and no assurance can be given that a position contrary to that expressed herein will not be asserted by a tax authority and ultimately sustained by a court.

For Questions On The Inflation Reduction Act Contact:

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ENERGY GLASS SOLAR ™ QUALIFYING TAX INCENTIVES

"The Energy Glass Photovoltaic Solar Window system is eligible and able to access incentives relating to Public Law 117-169, 136 Stat. 1818, commonly known as the Inflation Reduction Act of 2022 (IRA), amended §§ 30C, 45, 45L, 45Q, 45U, 45V, 45Y, 45Z, 48, 48C, 48E, and 179D of the Internal Revenue Code (Code) to add prevailing wage and apprenticeship requirements to qualify for increased credit or deduction amounts.

The Energy Glass Photovoltaic Solar Window system is eligible amongst other things to access the investment tax credit (ITC); (that reduces the federal income tax liability for projects) located in the United States or U.S. territories, and amongst other things includes Energy Glass panels, framing system, inverters, installation, energy storage systems, CSP systems, balance-of-system equipment, and sales and use taxes on the equipment. Additionally, on a case-by-case basis, structures holding the Energy Glass solar PV Window system may be eligible for the ITC incentive benefits".

ADDITIONAL 10% OPPORTUNITY ZONE OR LOW-INCOME ZONE CREDIT

The Energy Glass manufacturing facility is located in what is considered a Low Income Opportunity Zone location, possibly availing qualified purchasers of Energy Glass products an additional 10% tax credit.

This memo highlights the Inflation Reduction Act incentives in connection with Saxon Capital Group's "EnergyGlassSolar™". The following should not be construed as tax advice; recipients should consult a tax advisor to determine if they qualify for tax credits or incentives.

SAXON CAPITAL GROUP
- DBA -
ENERGY™ GLASS SOLAR, INC.
OTC: SCGX

ABOUT ENERGY GLASS™

Energy Glass is a 100% Field of Vision glass that produces continuous energy from any external or internal light sources with no grids, dots, lines, or distortion. The glass contains no window films, coatings that crack or peel, and has a 20+ yr. estimated lifespan like typical plate glass, requiring no special maintenance during its lifespan.

Generated energy can be inverted, stored in batteries, directed to DC equipment, or sent back to the grid, meaning possible Feed-In-Tariff opportunities that generate revenue or cost reduction. Energy Glass can be configured into standard or custom applications from lightweight polycarbonate, tints, low E, insulated, reflective, glass ceramic, hurricane, bomb, earthquake,

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